IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

FAO-5836-2013
Date of decision: 1.10.2015

Kelo Devi and another
...Appellants

Versus

Ranjit Singh and others
...Respondents

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Sagar Aggarwal, Advocate for the appellants

Mr.SS Momi, Advocate for respondent No.1.

Mr.Satpal Dhamija, Advocate for respondent No.3

Mr.Sanjiv Sharma, Advocate for
Mr.Parminder Singh, Advocate
for respondents No.4 & 5

Mr.Manoj Dhiman, Advocate for
Mr.Vishal Aggarwal, Advocate for respondent No.6.

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SNEH PRASHAR, J.

The present appeal has been filed by the claimants-appellants seeking enhancement of the compensation awarded by the Motor Accident Claims Tribunal, Kurukshetra (for short 'the Tribunal'), vide award dated 7.5.2013, on account of death of Ravinder Kumar in a motor vehicular accident.

The submissions made by learned counsel for the parties have been heard and record perused.

Learned counsel for the appellants contended that the income of the deceased assessed by learned Tribunal is on the lower side. The deceased was a student and used to help his father in agriculture pursuits and dairy business. He was an earning hand and his income should have been assessed as Rs.8000/- per month. Also no amount was added in the income towards future prospects and nothing was awarded to the mother for loss of love and affection. The amount awarded towards funeral expenses is also on the lower side.

On the other hand, learned counsel appearing for the respondents submits that very much appropriate and adequate compensation has been awarded by learned Tribunal, which calls for no intervention.

The factum of death of Ravinder Kumar due to the injuries suffered by him in a road accident is not disputed. As per post mortem report Ex.P8, the deceased was 18 years of age at the time of his death. The claimants pleaded that he was a student and was also engaged in agricultural pursuits, but there is no substantive evidence to prove that the deceased was a student. When he was not studying at the said age, it is obvious that he must be engaged in some manual work to earn a living for himself and his family. Therefore, it has to be accepted that the deceased used to help his father in agricultural pursuits. However, the claimants-appellants did not produce any documentary evidence to support their contention that the deceased used to earn Rs.8000/- per month. In the set of facts pleaded learned Tribunal rightly treated him to be a casual labourer, but the assessment of income as Rs.3000/- per month is certainly on the lower side and therefore, as per the minimum wages prevalent at the relevant time, the income of the deceased is assessed as Rs.4200/- per month.

Perusal of the award shows that no increase in the income was allowed towards future prospects, therefore, in view of the law laid down in **Rajesh and others vs. Rajbir Singh and others (2013) 9 SCC 54**, the claimants are entitled to 50% increase towards future prospects.

As held in **Reshma Kumari and others vs. Madan Mohan and another 2013 (2) RCR (Civil) 660** and **Munna Lal Jain and anr. vs. Vipin Kumar Sharma and others (2015) 6 SCC 347** for choosing the multiplier the age of the decease is to be considered. Since the deceased was 18 years old at the time of his death, 18 will be the appropriate multiplier as laid down by Hon'ble Supreme Court in **Smt. Sarla Verma and others vs. DTC and another 2009(3) RCR (Civil) 77.**

The claimants are parents of the deceased. But father of the deceased is an earning person, therefore, learned Tribunal has rightly held that he is not dependent upon the income of the deceased and the mother is the only claimant and deducted 50% of the income towards personal expenses of the deceased.

Indeed, the amount of Rs. 10,000/- awarded towards funeral expenses is on the lower side, which is enhanced to Rs.20,000/-. The claimant mother is also entitled to a sum of Rs.20,000/- towards loss of love and affection.

Accordingly, the total compensation comes to Rs.7,20,400/- i.e. Rs.4200 (monthly income) + 50% (future prospects) - 1/2 (deduction toward personal expenses of the deceased) x 12 x 18 (multiplier) + 20,000 (loss of love and affection to the parents) + 20,000 (last rites expenses including already awarded). The enhanced compensation of Rs.3,86,400/- (7,20,400- 3,34,000/- already awarded) shall be paid to claimant-appellant No.1, who is mother of the deceased, within a period of 45 days from the date of the receipt of the certified copy of the judgment, failing which, the same shall carry interest @ 7.5% per annum from the date of the filing of the appeal till its realisation.

Resultantly, the present appeal is partly allowed and the impugned Award is modified to the above extent.

1.10.2015 **(SNEH PRASHAR)**
gsv **JUDGE**